

Appendix 4. South Maui (Island of Maui) Focus Site Report

South Maui (Island of Maui) Focus Site Report

Section 1: Context

- (1.1) Site Description and Recreational Activities Occurring in South Maui
- (1.2) Commercial Ocean Recreation Operations in South Maui
- (1.3) Regulation of Commercial Ocean Recreation Activities

Section 2: Primary Issues of Concern

- (2.1) Resource Conservation
- (2.2) Public Safety and Access
- (2.3) Commercial Ocean Recreation Activities

Section 3: Other Issues of Concern

Section 4: Proposed Recommendations for the South Maui Focus Site

- Table 1: Proposed Recommendations for Resource Conservation
- Table 2: Proposed Recommendations for Enhancement of Public Safety and Access
- Table 3: Proposed Recommendations for Commercial Ocean Recreation Activities
- Table 4: Comparison of Different Commercial Operator Permit Issuance Systems

1. CONTEXT

A site map and a description of the South Maui Focus Site and recreational activities occurring there are given below. This is followed by information on current resource protection efforts at the focus site. County ordinances and state regulations pertaining to commercial ocean recreation activities are then summarized.

1.1 Site Description and Recreational Activities Occurring in South Maui

The South Maui Focus Site includes several county beach parks, one state beach park (Makena State Park/Big Beach) and Molokini Crater (a no-take reserve located just offshore), as shown on Figure 1. County beach parks that allow commercial ocean recreational activities are: (1) In Kihei: Memorial/Mai Poina ‘Oe Ia’u, Waipuilani, and the northern portion of Kalama Beach Park, (2) In Wailea: Keawakapu (I and II) and Ulua/Mokapu, and (3) In Makena: Palauea, Makena Landing Beach, and Maluaka Beach Park.

County parks within the South Maui Focus Site that do not allow commercial ocean recreational activities are located in Kihei. They are Cove Park, Kamaole Beach Parks (I, II, and III), and the southern portion of Kalama Beach Park (the section from the sand beach at Cove Park to the southern-most parking area adjacent to South Kihei Road). Facilities vary among parks, but generally include restrooms, outdoor showers, picnic tables, and parking. Lifeguard stations are located at Cove Park and the three Kamaole Beach Parks.



Kihei, Wailea, and Makena Areas of Maui

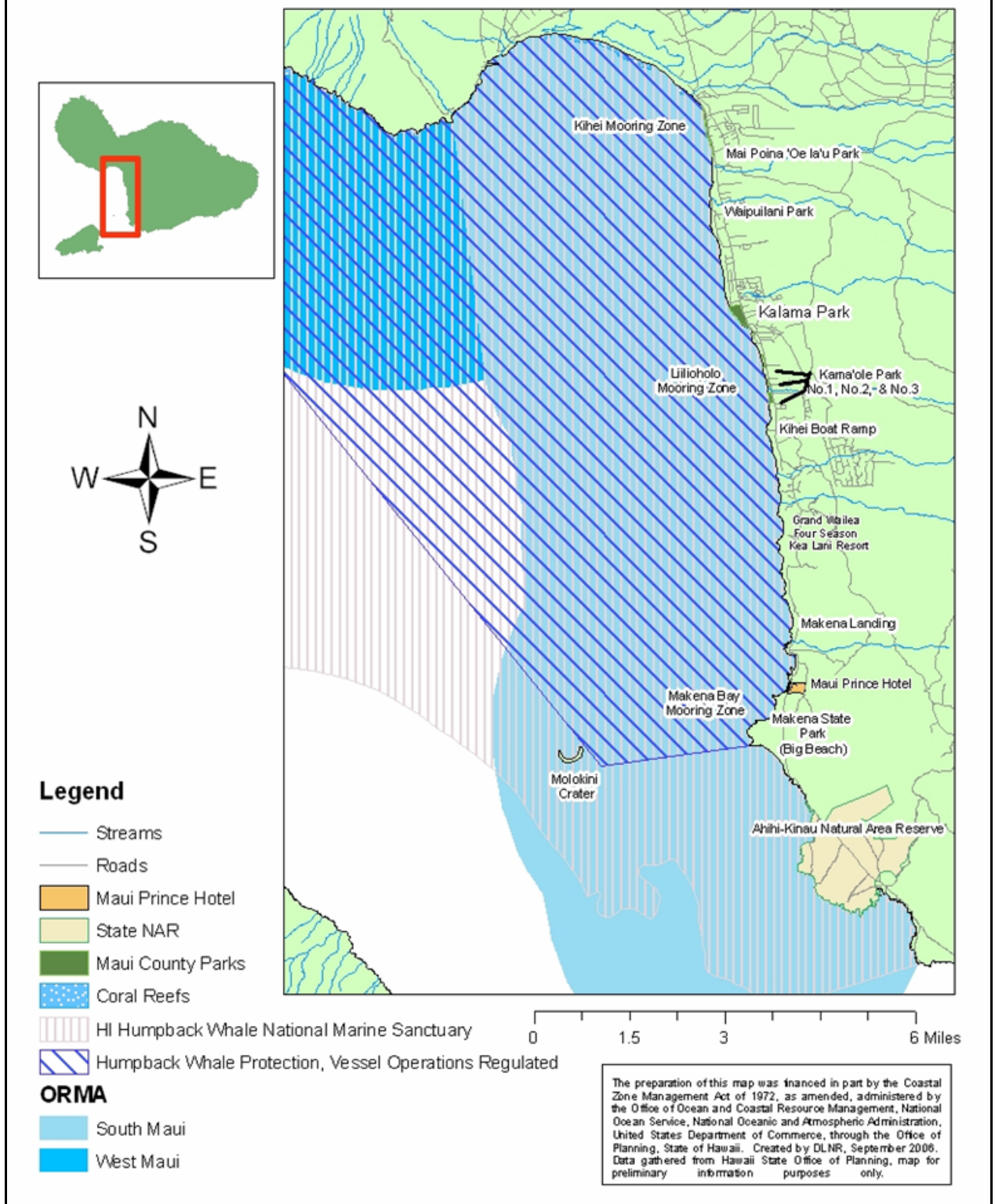


Figure 1: South Maui Site Map

Ocean recreational uses occurring at the Kihei parks include surfing, swimming, kiteboarding, windsurfing, kayaking, and fishing. These parks are easily accessible from South Kihei Road and are located in a dense residential area so they receive high use. Kiteboarders and windsurfers from Kanaha Beach Park on the north shore of Maui favor Memorial Beach on south (Kona) wind days.

Ocean recreational uses occurring at the county parks in Wailea reflect the better fringing coral reef development along this shoreline. Uses include snorkeling, SCUBA, and spearfishing. These beach parks receive heavy use throughout the week because of their close proximity to hotels and condominiums.

The beaches in Makena are generally more tranquil and quiet, being away from the population centers. The exceptions to this are Makena Landing Beach, which receives heavy commercial use (discussed in more detail in section 1.4 below) and Makena State Park (Big Beach) which can receive high use levels, particularly on weekends. Types of ocean recreation uses occurring at beaches in Makena include kayaking, swimming, snorkeling, SCUBA, outrigger canoe paddling, fishing, and camping.

The waters offshore the study area are designated as part of the Hawaiian Islands Humpback Whale National Marine Sanctuary waters. During the winter months this is a popular breeding and birthing area for the endangered humpback whale. Green sea turtles are also plentiful off the Makena shoreline.

Molokini crater, located just over two miles off Maui's south coast is designated a State Marine Life and Bird Conservation District. In addition to the high resource quality of this area, its crescent shape provides protection from waves and powerful currents, making it a popular site for snorkeling and SCUBA. Most diving takes place near the westward arm of the crescent, but more advanced divers enjoy the sheer drop off on the back side of the crater. There are strong currents on the outside rim of the crater, allowing for "drift" dives. Twenty-six permanent moorings are located in Molokini Crater for both commercial and non-commercial use (specific rules regarding use of these moorings are discussed below in Section 1.3). Other offshore mooring zones occurring within South Maui, as shown on Figure 1, are the Kihei Mooring Zone (offshore from the southwestern tip of the Kihei Pier ruins), the Lilioholo Mooring Zone (offshore Kamaole Beach Parks II and III and Lilioholo Point), and the Makena Bay Mooring Zone (offshore Maluaka Beach).

The 'Ahihi-Kina'u Natural Area Reserve (NAR) is located south of the study area (Figure 1). It is protected from fishing and, more recently, is off-limits to commercial recreational tours such as kayaking and snorkeling excursions.

1.2 Commercial Ocean Recreation Operations in South Maui

The types of commercial uses occurring in the Kihei beach parks are kayak tours, surf schools, and kiteboarding and windsurfing lessons. Few commercial ocean recreation activities are occurring at the County beaches in Wailea, although there are some small scale shore-based SCUBA diving operations. The only real hub of commercial ocean recreation activity in Makena is at Makena Landing Beach. Many kayak companies formerly operating out of La Perouse Bay (which borders the 'Ahihi-Kina'u NAR) translocated to Makena Landing when the DLNR prohibited commercial uses operating out of La Perouse Bay in 2004. Combination snorkel/kayak tours operate out of Makena

Landing, as do SCUBA diving tours. According to DLNR, DAR staff based on Maui, there are currently more than 40 permits issued to commercial boats for mooring use at Molokini Crater.

1.3 Regulation of Commercial Ocean Recreation Activities

Maui County has set an excellent precedent for other counties statewide for how to address carrying capacities and commercial ocean recreation activities in county parks. Maui's County Council voted to pay \$175,000 for an Environmental Assessment of several county parks in South Maui used for commercial operation and to freeze County permits until the study was completed. The resulting study, the Draft Commercial Ocean Recreational Activity (CORA) study, was produced in March 2005 by Munekiyo & Hiraga, Inc. for the County of Maui Department of Parks and Recreation. The study's findings and recommendations will be used by the County as a basis for developing their final rules, which will ultimately govern the administration of permits for CORA operators.

County ordinances and state rules and regulations pertaining to ocean recreation activities within the South Maui Focus Site are given below. Federal regulations pertaining to the protection of whales, dolphins, seals, sea turtles, and coral reef are provided in Part 1 of this report in Section 1.1 of "Rules and Regulations."

County Ordinances

Ordinance 3143 was approved by the County Council in October 2003 and amended the Maui County Code relating to Commercial Ocean Recreational Activity (CORA) and ocean recreational activity permits. The key provisions of Chapter 13.04, Maui County Code, following the adoption of Ordinance 3143 are summarized here:

- Applicability (13.04.250): To regulate CORA in or on County property.
- Purpose (13.04.255): To fairly and effectively regulate CORA to ensure that County beach parks and other County property are utilized for the community's maximum recreational, environmental and economic benefit.
- Prohibitions (13.04.256): CORA is prohibited at Baldwin Beach Park, Cove Park, Hookipa Beach Park, Kamaole Beach Parks I, II, and III, the southern portion of Kalama Park (the section of Kalama Park from the sand beach at Cove Park to the southern most parking area adjacent to South Kihei Road), Launiupoko Beach Park, and Puamana Beach Park.
- Permit Requirement; Additional Regulation (13.04.260): It is unlawful for any business to conduct CORA without a permit. A separate permit shall be required for each CORA. Additional regulation of CORA shall be established by applicable rules, including but not limited to the days, time, place and volume of use of County beach parks.
- Permit Conditions (13.04.280): All permits shall be subject to conditions relating to safety certifications and policies, conduct of business transactions, equipment loading, unloading and storage, and insurance and indemnification requirements.
- Permit Term; Suspension; Revocation (13.04.290): Permits shall have a duration of up to one year. The director may suspend or revoke any permit issued pursuant to this article if the permit holder has violated any rule, ordinance, or statute related to the CORA.

- Ocean Recreational Activity Fund (13.04.340): Any fees collected into the fund may be used for salaries, equipment purchase, and maintenance of County property.

The County has been granted rule-making authority to develop specific and enforceable criteria for implementing the parameters of Ordinance 3143, in the form of administrative rules for permit issuance and management. Maui County Parks and Recreation staff present at the October 2006 South Maui Ocean Recreation Focus Group meeting reported a new county ordinance that was just passed, punishing illegal commercial operations with a \$1,000 fine or 30 days in jail.

State Rules and Regulations

The State of Hawaii Department of Land and Natural Resources has jurisdiction over the waters of South Maui, up to the high wash of the wave. Within its jurisdiction the State regulates operators of commercial vessels, water craft, and water sports equipment. Both commercial and non-commercial uses are regulated in the South Maui Ocean Recreation Management Area (ORMA).

ORMA Boundaries

The Hawaii Administrative Rules (HAR) for the South Maui ORMA are given in §13-256-116: “The South Maui Ocean Recreation Management Area means all ocean waters and navigable streams from the eastern boundary of La Perouse Bay to McGregor Point, Maui, Hawaii, extending 3000 feet seaward of the territorial sea base line ...” No specific use zones are designated within the South Maui ORMA.

ORMA Recreation Advisory Committees

According to §13-256-3 (b), Recreation Advisory Committees are to be established by the department for each designated ORMA. The DLNR, DOBOR, is currently establishing a Recreation Advisory Committee for the South Maui ORMA.

Hawaiian Island Humpback Whale National Marine Sanctuary

The waters offshore South Maui are protected as part of the Hawaiian Island Humpback Whale National Marine Sanctuary (Figure 1). Per HAR §13-256-112, “Between December 15 and May 15 of the following year during the whale season, no person shall operate a thrill craft, or engage in parasailing, water sledding or commercial high speed boating, or operate a motor vessel towing a person engaged in water sledding or parasailing within this area.”

Molokini Crater Day Use Moorings

Hawaii Administrative Rules governing commercial use restrictions of the Molokini island day use mooring area, as stated in §13-257-52, include the following: “(a) No vessel shall use a day use mooring for commercial purposes unless the owner has been issued a marine life conservation district use permit by the department [DLNR]... (b) Mooring Zone ‘A’ is designated for use by commercial vessels carrying 12 or more passengers. Mooring zone ‘B’ is designated for use by commercial vessels carrying less than 12 passengers. The use of any one particular mooring shall be on a first-come, first-served basis...” According to HAR §13-257-54, mooring zone ‘C’ is designated “...for primary use by recreational vessels.... Recreational vessels may also use vacant moorings located in zones ‘A’ and ‘B’ except during the period from 8:30 am to 11:30am.” Vessel

speed is restricted to “slow-no-wake” within Subzone A per HAR §13-257-55. Fees for commercial day use mooring permits, as stated in §13-257-53, are “...the greater of \$100 per month or 2% of gross receipts, provided that this fee shall be waived for commercial operators who are presently paying commercial vessel user fees for the use of state boating facilities in accordance with section 13-234-5.”

Other Mooring Zones

Boundaries for the Kihei Mooring Zone, the Liilioholo Mooring Zone, and the Makena Bay Mooring Zone are described in section 13-235-68 through section 13-256-70 and shown on Figure 1.

2. PRIMARY ISSUES OF CONCERN

According to South Maui Ocean Recreation Focus Group participants (hereafter referred to as “Focus Group” participants) the primary resource conservation issues needing to be addressed were enforcement capacity, harassment of endangered marine species, and moorings. The primary concerns relating to public safety and access were ocean recreational user conflicts, fishing access, and impacts of marketing. The topics of greatest concern relating to commercial ocean recreation activities were the effects of jurisdiction on enforcement, business protocols, and the current permit system.

The South Maui Ocean Recreation Focus Group, facilitated by CSV Consultants, is comprised of individuals representing the following agencies, organizations, and businesses:

Federal Government: NOAA (Hawaiian Island Humpback Whale National Marine Sanctuary)

State Government: Office of Hawaiian Affairs, DLNR (Office of the Chairperson, Division of Aquatic Resources, Division of Boating and Ocean Recreation, Division of Conservation and Resources Enforcement, Division of Fish and Wildlife, and Division of State Parks)

County Government: Maui County (Ocean Safety, Parks and Recreation)

Non-Profits: Ocean Tourism Coalition, Maui Hawaiian Civic Club, Maui Tomorrow, Maui Reef Fund, Hawaii Wildlife Fund, Project SEA-Link, Kihei Community Association (Parks Committee), Activities and Attractions Association

Businesses: Kite School of Maui, Maui Dreams Dive Shop, Octopus Reef Dive Shop, Maui Thrills Eco Tours, Maui Hotel Association, Maui Beach Services, Kayak Association of Maui

Others: Governor’s Liaison for Maui, Marine and Coastal Zone Advisory Council (MACZAC), fishermen, concerned citizens

2.1 Resource Conservation

Enforcement Capacity

Focus Group participants are concerned that neither state nor county enforcement capacities are keeping pace with the increasing ocean recreational use of state and county beach parks. In 2006, visitation levels to the island of Maui were 2,405,257 people, up 6.3% from the year 2005. There was concern that funding for new officers could directly compete with funds for maintaining facilities, and that one should not be funded at the expense of the other.

Harassment of Endangered Marine Species

Although NOAA enforcement officers are present on Maui during the majority of the humpback whale season, Focus Group participants were still concerned about harassment of federally protected marine species, including whales, dolphins, sea turtles, and monk seals. These animals frequent the nearshore waters of the South Maui coastline in close proximity to a number of crowded beach recreation areas. In certain areas, monk seals sometimes haul up onto the beach to rest or have their pups. During whale season humpbacks cow/calf pairs sometimes come very close to shore. A pod of spinner dolphins regularly visits La Perouse Bay and spotted dolphins and bottlenose dolphins often ride the bow waves of tour boats making their way to Molokini Crater. Recreational users in the water (snorkelers, SCUBA divers, kayakers, and swimmers) are often in close proximity to dolphins, green sea turtles, and (the less common and federally endangered) Hawksbill turtles. Harassment occurs when ocean recreation users get too close to or touch these animals.

Educational outreach and research programs occurring on Maui to help prevent harassment of protected species and to help improve our understanding of Hawaii's marine resources include: (1) workshops being conducted by the Coral Reef Alliance (CORAL) in partnership with industry operators to develop voluntary standards and protocols for commercial ocean recreation operator etiquette, (2) Ocean Awareness Classes, which were created through a collaborative effort between many local organizations, agencies, and businesses to increase public awareness of rules, stewardship etiquette, and ocean safety, and to provide certification cards, (3) Reef Environmental Education Foundation (REEF) Fish Surveys being coordinated through Project S.E.A.-Link and Hawaii Wildlife Fund (HWF), involving volunteer divers and snorkelers as participants in a nation-wide program developed in 1990 to create a publicly-accessible database available to a variety of resource agencies and researchers, (4) the Makai Watch program initiated by the Community Conservation Network, HWF, The Nature Conservancy, and DLNR, DAR, involving citizens in providing education to the general public and reporting natural and cultural resource abuses to the appropriate authorities, (5) the Monk Seal Watch program conducted by HWF in coordination with volunteers and the Maui Police Department (MPD) to protect seals hauled out on beaches, and (6) the Hawksbill Recovery Project, involving hawksbill and green sea turtle tracking, monitoring, and nest protection efforts conducted by HWF with the support of the volunteer "Beach Patrol" program.

Moorings

Focus Group participants were concerned that coral reef damage is occurring within the South Maui Focus Site. Coral damage can result from a number of causes, including anchor use, trampling, abandoned fishing gear, and storm waves. Focus Group participants were primarily concerned with nearshore reef damage resulting from inexperienced ocean users, and from the potential for serious damage to occur from boats breaking free of their moorings. Concerns specifically relating to moorings included:

- **Vessel Size and Mooring Capacity:** The moorings at Molokini Crater were initially designed for 6-pack dive boats and other small to medium-sized vessels. According to Maui-based DLNR, DAR staff, there are tour boats using the State Marine Life and Bird Conservation District that carry up to 149 passengers on board. There is concern that these moorings may be taxed beyond capacity. If a boat within Molokini Crater were to break free, it could fail to engage its props

due to the high volume of swimmers in the water, and could end up drifting into the reef.

- **Mooring Maintenance and Placement:** DLNR, DAR representatives were also concerned that there is no formal funding program in place for the maintenance and placement of these moorings. In addition, per HAR §13-257-53, the fees for commercial day use mooring permits are only 2% of gross receipts and that fee is waived for commercial operators who are presently paying commercial vessel user fees for the use of state boating facilities. Some funding is currently being provided by the Maui Reef Fund for mooring projects. DAR employees rely on partnerships, such as the one with the Maui Reef Fund, to help with maintenance support. In addition to providing maintenance support, the Maui Reef Fund and Malama Kai choose sites for mooring place and obtain Corps of Engineers approval for placement. The agency's concern, however, is that mooring maintenance and placement not be completely industry-driven. The DLNR needs to retain the final decision on the number and location of moorings installed.
- **Mooring Zonation at Molokini Crater:** The zones "A", "B", and "C" designated in §13-257-52 are not in alignment with the actual location of the moorings, which were placed based on habitat considerations. Therefore, not all boats carrying more than 12 passengers are restricting their use to Zone A.
- **"Pirate" Moorings:** Several "pirate" (illegal) moorings have been installed along the Makena coast. Maui-based DLNR, DAR staff surmise that part of the reason for these pirate moorings, may be that the mooring permitting and installation process is so lengthy.

2.2 Public Safety and Access

Ocean Recreation User Conflicts

Although some ocean recreation user conflicts are occurring in South Maui, as summarized below, there are also a number of "gentlemen's" agreements that have been worked out among diverse users to help prevent conflicts from occurring. These include the work of Focus Group participants who have joined with other paddlers, kite boarders, windsurfers, and fishermen in South Maui to create times and use zone to avoid user conflicts. Similar types of agreements are also in place on Maui's north shore (at Kanaha and Ho'okipa).

- **Fishermen and Snorkelers:** Fishermen within the Focus Group said the perception of fishermen has changed over the last 15 years. In the early 1990s spearfishers were revered as adventurers; now some perceive them as resource exploiters. In some instances fishermen have had their catch cut from their towline as they were swimming back to shore.
- **SCUBA divers and fishermen:** In some cases there has been a sense of animosity between commercial SCUBA operators and recreational fishermen, stemming from the depletion of fish resources.
- **Jet skis and swimmers:** The Kihei Community Association and Ocean Safety Officers at the Kamaole Beach Parks are concerned about jet skis traversing the nearshore waters. They launch from the Kihei boat ramp and come in close to swimmers and snorkelers. Some would like to see jet ski use banned for South Maui.
- **Surfers and boaters:** The Kihei Boat Ramp channel was created for boaters, however, over the years it has also created a great surf break, which is popular with surfers. This has created a safety issue with surfers and boats vying for space

in the channel. Some efforts are already underway to try to educate surfers to stay clear of the boat channels.

- **SCUBA divers and other users:** Maui-based DLNR, DAR representatives are concerned about the safety of divers. There is concern that divers without flags are less visible to windsurfers and kiteboarders, and could be injured.

Fishing Access

Fishermen participating in the Focus Group said that coastal crowding is making traditional fishing difficult. Continued real estate development is limiting access, which causes them to come into closer contact with other recreational users. In many cases fishermen cannot just go to another area; they often have heavy gear and need shoreline access close to parking lots.

Nighttime closures of beach parks, including Makena State Park, were also noted by Focus Group participants as a barrier to fishermen. Nighttime fishing is preferred by some fishermen because there is much less recreational activity occurring and it is often when the more desirable fish, such as ulua, can be caught. Nighttime closures have occurred because of illegal use of parks at night, including drinking and drug use. Fishermen would like to work with the State and County to be able to access these areas for night fishing.

Impacts of Marketing

Several Focus Group participants felt that the marketing of Maui as the #1 Island by Conde Nast for several years in a row has led to overcrowding, putting a strain on county and state beach park facilities. One specific complaint was that guide books, particularly *Maui Revealed*, lead people into isolated areas where they are unprepared for conditions. One of these remote places is the lava fields within the 'Ahihi-Kina'u NAR in South Maui. The State Rangers patrolling the area and the HWF naturalists stationed at the education station and conducting research have seen numerous occasions of visitors injured from abrasions from lava rock and coral, or suffering from heat exhaustion. They have also witnessed these visitors throwing rocks off of archaeological sites, standing up on or grabbing onto coral reef, and swimming with dolphins.

2.3 Commercial Ocean Recreation Activities

Effects of Jurisdiction on Enforcement

The enforcement arm of the County is the MPD, and the state enforcement arm is DOCARE. There have been problems with slow response times to calls for assistance, given that the staffing for both the MPD and DOCARE is stretched thin around the island. The grant-funded State Ranger program implemented in 2004 is helping to mitigate some of these problems. There are two DLNR, Division of Forestry and Wildlife (DOFAW) Rangers patrolling the 'Ahihi-Kina'u NAR and Keone'o'io (La Perouse Bay). While they have no law enforcement authority, they work closely with DOCARE and the MPD to prevent illegal fishing, poaching, endangered species harassment, and cultural site degradation. Hawaii Wildlife Fund naturalists collecting human use data and providing educational outreach at the education station located in the NAR also work closely with the State Rangers in relaying information about poaching or other illegal activities occurring.

In addition to continuing to support the State Ranger program, Focus Group participants were also interested in exploring the idea of deputizing Ocean Safety Officers (OSO). There are two primary concerns regarding the idea of deputizing OSO. One is that it would pull them away from their primary responsibility of guarding after the public's safety and performing rescue operations as necessary. The second was that additional training would be required. The Maui County OSO within the Focus Group stressed that Ocean Safety is one of the only agencies that requires their employees to complete a physical test on an annual basis (the 1,000 meter run and 1,000 meter swim). Older OSO close to their retirement who are very knowledgeable but are no longer able to pass the physical test could benefit from having alternative duties, such as enforcement, available to them.

Focus Group participants also discussed the idea of cross-deputizing DOCARE and MPD officers. One obstacle was that ordinances and rules differ among jurisdictions (for example drinking is allowed in some county parks but not in state parks). But examples were cited of state enforcement officers in Seattle, WA also spending time enforcing city park ordinances. When in the county jurisdiction these officers didn't wear their firearms.

Surf schools operating out of Cove Park in Kihei was raised as an example of a situation in which inter-jurisdictional enforcement cooperation would be highly beneficial. Maui County has banned commercial use in Cove Park, and has even amended the rules to include sidewalks as part of the park so that renegade operators couldn't just operate off the sidewalk and claim not to be in a county park. However, some commercial surf schools are still teaching classes within the bay. They skirt the county park laws by accessing the water from nearby private properties and then paddling back to the bay and into DLNR jurisdiction. Focus Group participants commented that financial incentives will continue to promote this kind of behavior.

The importance of creating an enforcement presence to promote compliance was also discussed at the Focus Group meeting. The County Parks and Recreation representative noted the success their two park rangers are having at improving compliance in South Maui's County parks. While the Park Rangers do not have law enforcement authority, they coordinate closely with the Maui Police Department and will have dispatch radios with a direct line to the MPD.

Business Protocols

Focus Group participants were unclear whether business protocols were standardized and whether commercial operators were certified. The consensus was that better training and protocols would elevate the overall professionalism of the ocean recreation industry.

Current Permit System

There was concern among Focus Group participants that the current permit system is inconsistent. While the commercial charter boat fleet must comply with federal, state, and county rules in order to receive annual permit renewals, other sectors of the industry operate without any permits. Surf schools are operating without permits because the DLNR does not recognize surf schools within its regulations, but rather provides blue card surf instructor permits. Focus Group participants were also concerned that few prerequisites were required for existing permits. In the event that a new permit system is

created by the DLNR, commercial operators within the Focus Group had concerns about whether or not these permits would be opened to a bidding process.

The Commercial Ocean Recreational Activity Study recommended that Maui County's new CORA permits be site-specific, require the permittee to undergo training and to follow certain safety and environmental protocols, limit use in some areas on weekends, require shuttles to the site to reduce crowding in parking lots adjacent to the site, etcetera. The recommended approach to issuing permits was to provide non-transferable permits to all current operators and allow for attrition down to the number appropriate based on carrying capacity (as determined by the CORA study). The direction Maui County takes in finalizing its rules for CORA permits will serve as an interesting case study for the rest of the state.

3. OTHER ISSUES OF CONCERN

Fisheries Impacts

In light of a number of studies documenting adverse impacts resulting from fish feeding, there is concern about some tour boats regularly feeding the fish and encouraging their guests to do so as well. Focus Group participants were also concerned about the impacts of aquarium collecting and of the depletion of Hawaii's marine resources. Participants suggested that selective fishing techniques are arguably better for the environment than indiscriminant techniques as long as the number of fish being caught is controlled.

Commercial Use of Molokini Crater Moorings

Some of the Focus Group participants were concerned that Molokini Crater has been overrun by commercial use at the expense of recreational use. Others within the group argued that this is not the case, citing that (1) the area is already off-limits to fishing, so fishermen are not being displaced by commercial use, (2) the two moorings in Zone "C" are, per HAR §13-257-54, designated "...for primary use by recreational vessels", and (3) also per section 13-257-54, recreational vessels may use any of the 24 other vacant moorings located in zones "A" and "B" except during the period from 8:30 am to 11:30am.

Eco-Certification

Eco-certification was discussed as one possible avenue for addressing inconsistent business stewardship standards. This has been researched in depth by Wendy Kerr as part of her master's thesis exploring the feasibility of establishing such a program in Hawaii. Findings from her study include that eco-certification could help address these inconsistencies, could help visitors support sustainable businesses, and could deliver tangible benefits to participants, such as marketing advantages. Such a program would need to be consumer-based rather than being administered through the DLNR. Some Focus Group participants were skeptical about whether eco-certification could work and whether all operators could agree on protocol.

Long-term Funding Sources

Focus Group participants felt that more funding was needed to support facilities maintenance of existing parks, land acquisition for the creation of new parks, enforcement, and natural and cultural resource protection locally. Commercial ocean

recreation operators participating in the Focus Group were supportive of contributing a certain amount or a certain percentage of their gross receipts towards the maintenance of the public facilities they are using in the course of their operations, with the caveat that it go into a special fund rather than the General Fund. Another idea that was discussed was the creation of private/public partnerships. In the Seattle region, King County has partnered with MSN, creating WiFi parks with \$1.2 million worth of equipment and services in exchange for advertisement. While some participants were supportive of this innovative idea, others were skeptical about allowing advertising in parks.

4. PROPOSED RECOMMENDATIONS FOR THE SOUTH MAUI FOCUS SITE

Top priority recommendations for the South Maui Focus Site and their expected outcomes are presented in the tables below. Suggestions in the “other recommendations” table are secondary in importance. The first three tables mirror the DLNR hierarchy of uses: Table 1 contains proposed recommendations for resource conservation, Table 2 contains proposed recommendations for the enhancement of public safety and access, and Table 3 contains proposed recommendations for control of commercial ocean recreation activities. The final table, Table 4, is a comparison of different commercial operator permit issuance systems.

Table 1: Proposed Recommendations for Resource Conservation

Top Priority Recommendations	Expected Outcomes
Increase the staffing capacity of DOCARE	<ul style="list-style-type: none"> • A stronger enforcement presence should lead to improved enforcement success and higher levels of compliance • On-the-water patrols will reduce response time and increase safety for ocean users
Hire State Rangers through state civil service positions.	<ul style="list-style-type: none"> • Creating standardized systems of funding to support enforcement will increase chances of program longevity
Provide educational outreach to ocean recreation users to promote stewardship behaviors and reduce the harassment of federally protected marine species. Ideally, reach people before they engage in their ocean recreational activities.	<ul style="list-style-type: none"> • Natural resource protection • Better compliance with federal and state laws
Consider mandating fees specifically for mooring placement and maintenance.	<ul style="list-style-type: none"> • A reliable funding source will allow for more timely and consistent mooring maintenance and placement projects.
Conduct a status update on the capacity of mooring buoys in South Maui.	<ul style="list-style-type: none"> • The identification and fortification/replacement of buoys being used beyond capacity • Pairing mooring buoy capacity with appropriately sized vessels will reduce the potential for vessels to break free from these moorings, thereby reducing the potential for reef damage/harm to users • The number of day use moorings can be used to limit carrying capacity

Continue to partner with Malama Kai and the Maui Reef Fund for assistance in mooring maintenance and installation. Retain control within DLNR for the final determination on the numbers and locations of moorings installed.	<ul style="list-style-type: none"> • This public/private partnership provides important assistance to the DLNR • DLNR will be able to ensure the appropriateness of mooring placement
Amend the rules to re-designate mooring zones within Molokini Crater per the location of the actual moorings.	<ul style="list-style-type: none"> • Will enable mooring use to be in alignment with mooring regulations • Will simplify enforcement
Discourage “pirate” (i.e. illegal) moorings by increasing the number of recreational and commercial moorings available	<ul style="list-style-type: none"> • Less damage to reefs from pirate moorings • Better control over use and maintenance of moorings • Higher levels of compliance
Partner with groups already providing marine natural resource education on Maui to create an education campaign to discourage “pirate” moorings.	<ul style="list-style-type: none"> • Better informed user group • Higher levels of compliance
Other Recommendations	Expected Outcomes
Determine additional areas where fish feeding should be banned	<ul style="list-style-type: none"> • Fisheries protection • Increased user safety

Table 2: Proposed Recommendations for Enhancement of Public Safety and Access

Top Priority Recommendations	Expected Outcomes
<p>Create use zones within the South Maui ORMA. For example:</p> <ul style="list-style-type: none"> • Build upon existing gentlemen’s agreements in place for South Maui to establish times and use zones for reducing conflicts between paddlers, kite boarders, windsurfers, and fishermen in South Maui. • Establish no-boat swim zones (particularly at Kamaole Beach Parks I, II, and III to protect swimmers from jet skis). Designate these swim zones with buoys and ban boats from entering shore-side of the buoys. • Create zones for surfers at the Kihei Boat Ramp that don’t interfere with boats’ use of the boating channel. • Mandate the use of diver flags for SCUBA dives occurring on the back wall of Molokini Crater and in other high risk areas. 	<ul style="list-style-type: none"> • Reduced user conflicts • Increased safety
Partner with groups already providing marine natural resource education on Maui to create an education campaign explaining the cultural practice of subsistence fishing and identifying areas where this activity is legal.	<ul style="list-style-type: none"> • Better informed user group • Fewer user conflicts • Higher levels of compliance with fishing regulations
Work with fishermen to investigate ways to allow fishing access to areas closed at night	<ul style="list-style-type: none"> • Improved nighttime access for fishermen

Involve the tourism industry (including airlines) in discussions about: (1) including stewardship guidelines in marketing efforts, and (2) providing funding for local educational outreach initiatives	<ul style="list-style-type: none"> • Improved natural and cultural resource protection • Improved community-tourism industry relations • Financial support of local resource conservation projects
---	---

Table 3: Proposed Recommendations for Commercial Ocean Recreation Activities

Top Priority Recommendations	Expected Outcomes
Investigate the development of an Ocean Safety Enforcement Officer Division through Maui County. All OSO would be deputized, but only those within the enforcement division would perform enforcement duties	<ul style="list-style-type: none"> • Having a separate division will allow OSO to remain focused on their life saving duties • Will provide an opportunity for experienced lifeguards who are not able to pass the annual exam to remain in duty until retirement • If everyone receives training, then officers can transfer between divisions as needed • Greater enforcement presence and more timely enforcement of county regulations • Takes pressure of the MPD
Consider cross-deputizing DOCARE and MPD officers	<ul style="list-style-type: none"> • Better enforcement coverage • Increased compliance levels • Increased user safety • Increased resource protection
Consider creating an ORMA permit system to provide permits for surf schools and other commercial ocean recreation operators. Consider: <ul style="list-style-type: none"> • Issuing site-specific permits • Requiring the information contained in the Ocean Awareness Classes among the prerequisite knowledge for the attainment of commercial ocean recreation operator permits. Permit applicants could choose to take the class or test out of it, depending on their experience level. • Mandating business protocols as part of an ORMA ocean recreation operator permit system. • Limiting use on weekends in high use areas • Requiring shuttles to reduce on-site overcrowded parking conditions • Charging a percentage of gross receipts (between 5-15%) or a set per person fee 	<ul style="list-style-type: none"> • Increased standardization and level of professionalism within the industry • Increased user safety and natural and cultural resource protection • Better control of commercial operations in regard to carrying capacity • Fees collected can be used to fund management, enforcement, and resource protection efforts
Determine what type of permit issuance system would be appropriate	See “Table 4: Comparison of Different Commercial Operator Permit Issuance Systems” below

Other Recommendations	Expected Outcomes
Consider developing private/public partnerships as a source of long-term funding	<ul style="list-style-type: none"> • Could provide monies for facilities maintenance of existing parks, land acquisition for the creation of new parks, enforcement, and resource protection
Follow the progress of Maui County's new CORA permit system	<ul style="list-style-type: none"> • Can learn from their example and see what conflicts may arise and can be avoided if a similar State permit system is developed

Table 4: Comparison of Different Commercial Operator Permit Issuance Systems

Type of Permit Issuance System	Perceived Benefits	Perceived Liabilities
<u>Sealed Bid System:</u> All qualified applicants meeting minimum requirements would submit sealed bids. Permits would be issued to the highest bidders.	<ul style="list-style-type: none"> • A fair system for distributing a limited number of available commercial operator permits. 	<ul style="list-style-type: none"> • Potential for existing businesses to be out-bid
<u>Request for Proposals (RFP) System:</u> Proposals would be submitted and rated based on a number of factors, including prior business experience, business registration, operational procedures, and "bid" price.	<ul style="list-style-type: none"> • Would allow for a more subjective review of qualifications beyond the fulfillment of basic requirements and amount of bid offered. 	<ul style="list-style-type: none"> • Requires a more lengthy administration process • Review process could be criticized as subjective
<u>On-line reservation system:</u> The system currently being used by Na Ala Hele Trails serves as a prototype for a way to limit the number of operators in a specific area without limiting the number of commercial operator permits issued. The on-line system would be on a first come, first served basis, but would not allow any particular company to sign up for too many areas.	<ul style="list-style-type: none"> • Businesses would need to qualify • Will accommodate new business start ups as well as established businesses • Puts a ceiling on the number of commercial ocean recreation operations allowed in a particular area. 	<ul style="list-style-type: none"> • Can not accommodate last minute bookings or changes in guest numbers • Does not accommodate sudden changes in weather or ocean conditions
<u>Non-transferable permits to all existing businesses:</u> Instead of limiting the number of permits issued, non-transferable permits would be issued to all currently qualified existing businesses. Then, with attrition, some permits would expire so that the number of permits would eventually align with carrying capacity. This is being done by Maui County for their new permitting system.	<ul style="list-style-type: none"> • All qualified, existing businesses can receive permits 	<ul style="list-style-type: none"> • Does not accommodate new business start ups • Business permits cannot be transferred to family members • If attrition rates are slow then carrying capacity will not be met and overcrowding will occur • May not be appropriate for some overcrowded areas